



REFERENCE NO: 14/3/6/F4/5/0428/19

Mr R Davis
Paarl Poultry Farms (Pty) Ltd.
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Dear Mr Davis

APPEAL LODGED AGAINST A DIRECTIVE ISSUED IN TERMS OF SECTION 28(4) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") FOR FARM RE/1762, ROSENDAL CHICKEN FARM, KUMALO STREET, PAARL

1. Your appeal lodged against the Directive issued on 4 March 2019 by the Grade 1 Environmental Management Inspector i.e. the Director: Environmental Law Enforcement ("Department"), refers.
2. **EMPOWERING PROVISIONS IN THE APPLICABLE LEGISLATION:**
 - 2.1. Section 43(11) of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") states that after considering the appeal lodged in terms section 43(8), the MEC, as the case may be-
“(a) May confirm, modify or cancel a directive or any part of a directive; and
(b) May specify the period within which the person who received the directive must comply with any part of the directive that is confirmed or modified.”
3. After a careful consideration of the appeal, as well as the information contained on the file, I have decided in terms of section 43(11)(a) of the NEMA to **modify** the abovementioned Directive of the Department as follows:

“10. You are hereby directed to:
 - 10.1 Submit a copy of the manure management plan and the updated chemical control programme.
 - 10.2 Submit a copy of an updated progress report in terms of the –
 - installation of concrete flooring in all the chicken houses;
 - installation of gutters on the chicken houses;
 - installation of a conveyor belt system for manure handling.
 - 10.3 Submit copies of the following:
 - The results of the water tested from the borehole(s), the location of the borehole(s) as well the the direction of flow of water in relation to the chicken houses and the effluent storage dam;
 - The results and analysis of the soil samples tested.
 - The location and manner the chicken manure is stored on the farm.

The aforementioned information must be submitted within 20 working days of the date of this Directive.”

4. **REASONS FOR THIS APPEAL DECISION:**

Please find below the reasons for the variation of the aforementioned Directive of the Department:

- 4.1. Pollution was first reported to the Department in 2016. A Pre-Directive dated 18 July 2017 and a Directive dated 5 February 2018 was previously issued to Paarl Poultry Farms (Pty) Ltd. for nuisance conditions from excessive fly breeding at the Rosendal Chicken Farm.
- 4.2. The Directive dated 4 March 2019 was also issued for the nuisance conditions from excessive fly breeding that has been on going at the Rosendal Chicken Farm since 2016. The excessive fly breeding and associated nuisance resulted from the Farm's failure to effectively manage the manure emanating from the chicken houses to the point where it caused significant pollution and degradation to the immediate environment and surrounding community.
- 4.3. Pieter Badenhorst Professional Services cc ("PBPS") was appointed as the Environmental Assessment Practitioner ("EAP") to respond to the Directive. A submission dated 30 May 2019 was received from PBPS which responded to the directive, outlined the cleanup and included a report from Water & Wastes Utilisation Solutions (Pty) Ltd. which presented further steps to be taken to sustainably limit fly populations to below nuisance levels.
- 4.4. Since the issuing of the Directive dated 4 March 2019, I note that the following steps has been complied with:
 - The removal of the stockpiled chicken manure as per 10.1 of the Directive;
 - Cleanup and removal of chicken manure from the trenches below and between the chicken houses as per 10.2 of the Directive;
 - Desilting of the chicken manure sludge in the dam as per 10.3 of the Directive;
 - Appointment of an external reviewer as per 10.4 of the Directive;
 - The appoint of Pieter Badenhorst Professional Services as per 10.5 of the Directive.
- 4.5. The incident that lead to the Directive is not isolated and that complaints regarding the operation and management on the site date back to July 2017.
- 4.6. The Compliance Notices issued by the Drakenstein Municipality was done in terms of:
 - The Drakenstein Municipality Water Services By-Law of 2014;
 - The conditions of approval for intensive feed farming for portion 12 of 12 of Farm 657 dated 4 December 1989, issued in terms of clause 4.6 of the Scheme Regulations, promulgated under section 8 of the Land Use Planning Ordinance of 1985, (Ordinance 15 of 1985);

The Directive issued by the Department of Environmental Affairs and Development Planning was issued in terms of section 28(4) of the National Environmental Management Act, 1998 (Act No. 107 of 1998).

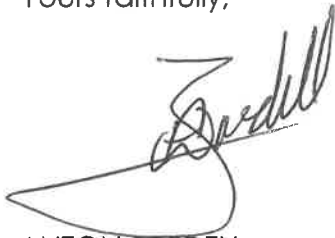
The notices issued by the Department (Provincial Government) and the Drakenstein Municipality (Local Government) was in terms of different legislation which each sphere of government administers. It must be noted that the one legislation does not

negate the other legislation to be applied. Transgressions are viewed in terms of all the applicable legislation.

The issuing of the Compliance Notices and the Directive is not deemed to be a duplication.

- 4.7. The timeframe of 5 working days and 14 calendar days related to the urgent action that was required to prevent further pollution from occurring. The 30 days appeal period related to the timeframe during which an appeal against the Directive must be submitted.
5. Section 49A(1)(g) of the NEMA states that it is an offence to fail to comply with a directive issued in terms of the Act. Should no information be forthcoming within the specified timeframe, the matter will be referred to the Directorate: Environmental Law Enforcement.
6. I have also been advised that the Senior Prosecutor at the Paarl Court for has granted Rosendal Chicken Farm time until February 2020 to implement all the required intervention measures to address the issues at the farm.

Yours faithfully,



ANTON BREDELL

**PROVINCIAL MINISTER OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE: 20/1/2020

Copied to:

1. Mr A Bassier
2. Mr P. Badenhorst

(Directorate: Environmental Law Enforcement)
(PBPS)

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